

### **REMARKS**

The applicant has carefully considered the Office action dated September 6, 2007, and the references it cites. By way of this Response, claims 57-64 are new, claims 31 and 42 have been amended, claims 43 and 55 have been withdrawn, and claims 32-36 and 46-47 have been cancelled without prejudice to their further prosecution. In view of the following, it is respectfully submitted that all pending claims are in condition for allowance and favorable reconsideration is respectfully requested.

### **RULE 132 DECLARATION**

Please find a declaration signed by the co-inventors enclosed herewith and incorporated herein by reference in its entirety. Please note that the signature of inventor Allan H. Hochstein appears on an additional signature page. Additionally, due to formatting, some of the text shifted on the signature page that includes Allan H. Hochstein's signature.

### **REJECTIONS UNDER 35 U.S.C. § 112**

Claims 31 and 42 have been amended, and claim 36 has been cancelled without prejudice to its further prosecution. It is respectfully submitted, that any indefiniteness issues that may have existed have been resolved. Accordingly, withdrawal of the indefiniteness rejections is respectfully requested.

### **REJECTIONS UNDER 35 U.S.C. § 102**

The Office Action rejected claims 31-33, 36, 37, and 44 over Delgado et al. (U.S. Patent Publication No. 2003/0140564). Independent Claim 31 relates to a door that includes a door panel, a lower track, a panel retention system, and a resilient connection.

Claim 31 specifies that the panel retention system remains in contact with the lower track even if the door panel moves out of the predetermined normal path.

As emphasized in Delgado's title, the invention described in Delgado relates to a sliding door 10 with a panel guide and impact separation system 12 (pg. 2, para. 32). Further, in describing the effects of impacting the sliding door 10, Delgado discloses that the panel retention system will disengage, separate, and release a guide 22 (pg. 3, para 43).

Delgado is missing a panel retention system that remains in contact with a lower track even if the door panel moves out of the predetermined normal path.

It is well settled that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Thus, because Delgado fails to describe a panel retention system that remains in contact with the lower track even if the door panel moves out of the predetermined path, Delgado cannot anticipate claim 31 or any claims that depend therefrom.

### **REJECTIONS UNDER 35 U.S.C. § 103**

The Office action rejected independent claim 45 under 35 U.S.C § 103(a) as being unpatentable over Delgado et al. (U.S. Patent Publication No. 2003/0140564) in view of Linstadt (U.S. Patent No. 1,802,519). Independent claim 45 relates to a door comprising, inter alia, an upper track, a door panel, a lower track, a panel retention system and a resilient connection. Claim 45 specifies that the lower track is attachable to the wall such that no portion of the lower track extends into the path of pedestrian or vehicle travel. Further, claim 45 specifies that the panel retention system remains in contact with the

lower track even if the impact exceeds the predetermined magnitude and the door panel moves out of the predetermined normal path.

As detailed above, Delgado relates to a sliding door 10 with a panel guide and impact separation system 12 (pg. 2, para. 32). Further in describing the effects of impacting the sliding door 10, Delgado discloses that the panel retention system will disengage, separate, and release a guide 22 (pg. 3, para 43). Delgado does not disclose or suggest, but instead teaches away from, a panel retention system that remains in contact with the lower track even if the impact exceeds the predetermined magnitude and the door panel moves out of the predetermined normal path, which is supported by the affidavit signed by the co-inventors. The Office action acknowledges that Delgado fails to teach a panel retention system that remains in contact with the lower track even if the impact exceeds a predetermined magnitude and the door panel moves out of the predetermined normal path, but suggests that Linstadt discloses a retention system to enable the door to automatically return to its predetermined normal path (Office action of September 6, 2007, page 5).

Linstadt (U.S. Patent No. 1,802,519) relates to a sliding door for barns that includes a raised door sill 6 (i.e., a bottom edge of a door frame) with a face strip 7 and a U-shaped downward facing guide track 8. Additionally, the sliding door includes a holding member 12 coupled to bottom of the door near the leading edge (i.e., the front edge of the door), which perpendicularly engages the bottom of the door face with the face strip 7 of the door sill 6, and, thus, the door hangs below the door sill 6 and the door sill 6 is raised above ground level. Linstadt discloses that the holding member 12 is yieldable to prevent the door from binding on the face of the door sill (see generally pg.

1, 95-100 and pg. 2, 1-5), which is not a resilient connection that allows the door panel to deviate from the predetermined path when a force exceeds a predetermined magnitude. Further, Linstadt does not disclose or suggest, a lower track that is attachable to the wall such that no portion of the lower track extends into the path of pedestrian or vehicle travel.

As discussed above, none of the cited portions of the prior art describe a lower track that is attachable to the wall such that no portion of the lower track extends into the path of pedestrian or vehicle travel and a panel retention system that remains in contact with the lower track even if the impact exceeds the predetermined magnitude and the door panel moves out of the predetermined normal path. Therefore, the combinations of Delgado and Linstadt used as the bases for the obviousness rejections, as discussed in the affidavit signed by the co-inventors, do not teach or suggest all of the recitations of the claims. No combination of the cited portions of the prior art suggests a lower track that is attachable to the wall such that no portion of the lower track extends into the path of pedestrian or vehicle travel and a panel retention system that remains in contact with the lower track even if the impact exceeds the predetermined magnitude and the door panel moves out of the predetermined normal path. “To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” M.P.E.P. 2143.03. “All of the words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Royka*, 490 F.2d 981 (C.C.P.A. 1974). Consequently, the obviousness rejection for all outstanding claims cannot stand and the claims are in condition for allowance.

#### **NEW CLAIMS**

By way of this Response, claims 57-64 have been added. Independent claim 57 relates to a door that includes an upper track, a door panel, a lower track, a panel retention system and a resilient connection. Claim 57 specifies that the resilient connection allows the door panel to move out of a predetermined normal path when subjected to an impact force but applies a restorative force to the door panel. Further, claim 57 specifies that the restorative force has both a horizontal component and a vertical component to return the door panel to the predetermined normal path upon removal of the impact force.

An example falling within the scope of this claim is found in the specification, for example, FIGS. 4 and 5 of our application illustrate the restorative force acting along strap 56 that is positioned at an angle (i.e., the strap 56 is not horizontal) to bring the door panel back to the predetermined normal path.

Delgado teaches a panel retention system that will disengage, separate, and release a guide 22 (pg. 3, para 43). As illustrated in FIG. 2 of Linstadt, Linstadt's invention only applies a horizontal restorative force, which acts along the holding member 12.

Neither Delgado and/or Linstadt teach or suggest a resilient connection that allows the door panel to move out of a predetermined normal path when subjected to an impact force but applies a restorative force to the door panel. Further, neither Delgado and/or Linstadt teach or suggest a restorative force that has both a horizontal component and a vertical component to return the door panel to the predetermined normal path upon removal of the impact force.

Independent claim 59 relates to an upper track a door panel, a lower track, and a resilient retention system. Claim 59 specifies that the door panel is suspended from the upper track and is able to translate relative to the doorway along a predetermined normal path. Additionally, claim 59 specifies that the resilient retention system allows the door panel to move both vertically and horizontally out of the predetermined normal path when the door panel is subjected to an impact force. Further, claim 59 specifies that the resilient retention system returns the door panel to the predetermined normal path upon removal of the impact force.

An example falling within the scope of this claim is found in the specification, for example, FIG. 3 of our application illustrates that the upper track lifts the door panel vertically. Additionally, an example falling within the scope of this claim is found in the specification, for example, FIG. 5 of our application illustrates that an impact force moves the door panel vertically.

As illustrated in FIGS. 1 and 2 of Linstadt, Linstadt's invention makes no accommodation for vertical movement. As discussed above, Delgado teaches a panel retention system that will disengage, separate, and release a guide 22 (pg. 3, para 43).

Neither Delgado and/or Linstadt teach or suggest a door panel that is suspended from an upper track and is able to translate relative to the doorway along a predetermined normal path. Additionally, neither Delgado and/or Linstadt teach or suggest a resilient retention system that allows the door panel to move both vertically and horizontally out of the predetermined normal path when the door panel is subjected to an impact force where the resilient retention system returns the door panel to the predetermined normal path upon removal of the impact force.

It is respectfully submitted that claims 57 and 59 and all dependent claims therefrom are in condition for allowance.

### **CONCLUSION**

Based on the foregoing remarks, it is respectfully submitted that all claims are in condition for allowance. If the Examiner is of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is invited to contact the undersigned at the number identified below.

The Commissioner is hereby authorized to charge any deficiency in the amount enclosed or any additional fees which may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 50-2455.

Please refund any overpayment to Hanley, Flight & Zimmerman, LLC at the address below.

Respectfully submitted,

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**March 6, 2008**